

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	Docket HWCA 20050906
Mr. Charles M. Bare, Jr., Owner Bare and Garcia Express, Incorporated 22331 Bloss Avenue Hilmar, California 95324 ID No. CAR00015295	CONSENT ORDER Health and Safety Code
Respondent.	Section 25187

The California State Department of Toxic Substances Control (Department) and Bare and Garcia Express, Incorporated, a California Corporation, (Respondent) enter into this Consent Order and agree as follows:

1. Respondent handled hazardous waste at 22331 Bloss Avenue, Hilmar, California 95324 (Site).

2. The Department inspected the Site on December 14, 2004 and February 2, 2005.

3. The Department alleges the following violations:

Respondent violated Health and Safety Code section 25163(a)(1), and California Code of Regulations, title 22, section 66263.17(a), in that between July 1, 2004 and August 11, 2004, Respondent transported hazardous waste forty three (43) times without a valid registration issued by the Department. Respondent's registration expiration date was June 30, 2004.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent does not admit the violation alleged above, except as follows: Respondent admits the facts alleged above for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within 5 years of the date the violations occurred.

SCHEDULE FOR COMPLIANCE

10. The violation has been corrected.

PAYMENTS

11. Respondent shall pay the Department a total penalty of \$2,000.00, payable in 5 payments of \$400.00 with payment in full by October 1, 2006. Payments are to be made on each of the following dates: October 1, 2005, January 1, 2006, April 1, 2006, July 1, 2006, and October 1, 2006.

11.1. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with a copy of the attached

Payment Vouchers to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Astrid L. Brown, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

To: Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Hazardous Waste Management Program
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

To: Richard Sherwood
Assistant Chief Counsel
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

If Respondent fails to make payments as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 7/22/05 (Original signed by Charles M. Bare Jr.)
Signature of Respondent's Representative

Dated: 7/22/05 (Original signed by Charles M. Bare Jr.)
Typed or Printed Name and Title of
Respondent's Representative

Dated: 7/29/05 (Original signed by Astrid L. Brown)
Astrid L. Brown, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control